

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Weber *et al.*

Appl. No. 10/753,069

Filed: January 8, 2004

For: Systems and Methods for Trading  
Actively Managed Funds

Art Unit: 3695

Examiner: Pollock

Atty. Docket: 00322.0008.CPUS01

**Declaration of Charles A. Baker Under 37 C.F.R. § 1.132**


I, Charles A. Baker, do hereby declare the following:

1. I incorporate my previous declarations filed in this case on September 28, 2009 and November 6, 2009.
2. In my previous declarations, I explained the transparency problem with respect to actively managed funds to be traded on secondary markets. My declarations and the evidence of non-obviousness use the term, "Exchange-Traded Fund," which term refers to a type of traded fund.
3. A traded fund is any collective investment vehicle that issues shares or other units representing ownership interest in the collective investment vehicle, which shares or units are traded in a secondary market at negotiated prices. A secondary market is a financial market where previously issued securities (such as bonds, notes, shares) and financial instruments (such as bills of exchange and certificates of deposit) are bought and sold. All commodity and stock exchanges and over-the-counter markets serve as secondary markets which (by providing an avenue for resale) help in reducing the risk of investment and in maintaining liquidity in the financial system. (*Source: BusinessDictionary.com*).
4. Exchange-Traded Funds are one type of traded fund (also referred to as "ETFs" in the financial industry) Exchange-Traded Funds are typically open-end vehicles – meaning that the number of shares or units outstanding fluctuates with demand – structured as a management company, unit investment trust, or other collective investment form. Closed-end funds, which issue a fixed number of shares or units, are another example of traded funds.
5. Although at present all Exchange-Traded Funds are listed on an exchange, the term "Exchange-Traded Funds" references operational characteristics that would function identically whether or not the fund is listed on an exchange, and in fact the shares of many Exchange-Traded Funds are also traded on secondary markets other than

exchanges. For example, for the first 6 months of 2010, 27% of all trading in U.S. ETFs took place in over-the-counter markets rather than on exchanges. (Source: ArcaVision).

6. The evidence I presented in my previous declarations of non-obviousness of the invention is applicable to any traded fund as to which the fund manager wants to keep the holdings confidential, whether or not the fund is listed on an exchange.
7. All traded funds could benefit from the solution of the transparency problem that allows investors to price or to hedge investments of the fund without knowing the specific assets held by the fund.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

By:   
Charles A. Baker

Date: 9/7/10

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